REMARKS

The following remarks are provided in response to the Office Action mailed January 29, 2007, in the above-identified application.

Allowance of claims 2-8, 11, 15-19 and receipt of the signed and initialed copies of the Information Disclosure Statements filed on August 22, 2005, and October 31, 2005, are acknowledged.

Claims 10 and 22 have been amended merely to delete obvious typographical artifacts of previous amendment, so no change has been made in the substance of either claim.

In the Office Action claims 10 and 20-27 have been rejected, and claims 9 and 28-33 have been withdrawn by the Examiner. Claim 10 was rejected under 35 USC § 103(a) as unpatentable over Berg et al., in view of Mizutani et al. and Rose et al. The Examiner takes the position that "Mizutani teaches . . . a groove 11, 12 extending away from the cavity," and a "spring having a pair of opposite ends 16 extending from the cavity to the second handle pivot joint and engaged with the tang 7, 8 of the blade carrier." The Examiner states that, "It would have been obvious to provide a cavity surrounding the blade pivot joint, a groove extending away from the cavity, a spring located within the cavity, the spring having a pair of opposite ends extending from the cavity to the second handle pivot joint and engaged with the tang of the blade carrier in Berg as taught by Mizutani in order to enclose the mechanism that urges the jaw and blade assembly to pivot apart from each other and protect it from dust and debris."

Rejection on those grounds is respectfully traversed. It is submitted that Mizutani does not disclose any groove extending away from the cavity, but merely shows anchoring holes to receive the ends of the spring. The anchoring holes disclosed by Mizutani et al. are illustrated as shallow cylindrical cavities each having a diameter parallel with the plane defined generally by the scissors blades and a central axis parallel with the pivot axis of the scissors, so that the spring is required to have an end portion extending perpendicularly from an arm of the spring, as shown in FIG. 5C of Mizutani, et al. There is no suggestion that the anchoring holes disclosed by Mizutani et al. should be in the form of grooves, nor is there anything in the present application

to suggest that "groove" should be interpreted to mean something other than a groove, nor has the Examiner provided any evidence that a person of ordinary skill in the art would understand the word, "groove" to refer to a hole such as the anchor holes of Mizutani et al.

It is also respectfully submitted that the Examiner is in error in finding that Mizutani et al. suggests that one of the opposite ends of a spring extends, "from [the] cavity to [a] handle pivot joint and thereby [is] engaged with said tang of said blade carrier." Both of the ends of the spring disclosed by Mizutani et al. are located in respective ones of the anchoring holes, located close to the pivot shaft, and Mizutani has no handle pivot joint as required by claim 10; thus there can be no suggestion of an end of the spring extending from the cavity to a handle pivot joint. While Berg et al. disclose a tool having a handle pivot joint, the springs in the Berg et al. tool are carried in the handles, not in a cavity surrounding a blade pivot joint, and operate to urge the scissors blades apart from each other in a completely different way from that defined by claim 10. The teachings of Berg et al. and Mizutani et al. thus fail to suggest the arrangement of the ends of a spring within a cavity surrounding the blade pivot joint as defined in claim 10, and the rejection of claim 10 should therefore be withdrawn.

Claim 22 has also been rejected under 35 USC § 103(a) as being obvious over a combination of the disclosures of Berg et al. and Mizutani et al. As does claim 10, claim 22 also recites ". . . a groove extending away from [a] cavity, . . . a spring located within said cavity, said spring having a pair of opposite ends, a first of said opposite ends extending into said groove and thereby being engaged with said jaw, and the other of said ends extending from said cavity to said second handle pivot joint and thereby being engaged with said tang of said blade, ..." As stated above with respect to claim 10, it is respectfully submitted that Mizutani fails to disclose or suggest a groove, an end of a spring extending into a groove, or another end of a spring extending from the cavity to a handle pivot joint, and there is no suggestion of how the springs held in the handles of the Berg et al. tool might be replaced by the spring arrangement disclosed by Mizutani et al. to arrive at the invention defined by claim 22. Accordingly, the rejection of claim 22 under 35 USC § 103(a) should be withdrawn.

Claims 20, 21 and 23-27 have been rejected under 35 USC § 103(a) as being unpatentable over Berg in view of Eklind.

Eklind discloses a tool in which a handle portion in the form of a channel has a pair of side walls and a bridge wall of which portions are covered by a grip 34 of a material such as synthetic rubber. Claim 20 defines a subassembly for a folding hand tool in which first and second handles "define channels having channel side walls, said channels facing inwardly toward each other when the handles are in their respective folded positions and facing outwardly apart from each other when said handles are extended with respect to said jaw and said blade, ..." Claim 20 also requires that, "cushioning portions covering at least a part of a respective margin of each of said side walls . . . [face] outwardly when said handles are extended, so as to provide cushioning of said margins of said side walls for a user's hand gripping said handle."

The handle disclosed in the Eklind reference is of a molded hard plastic material, but the grip 34 does not cover the margin portions of the side walls, and a tool having a pair of handles such as the one disclosed by Eklind would have the grip portions of such handles facing inwardly toward each other when such handles are extended with the channels facing outwardly apart from each other in accordance with the structure of the tool defined by claim 20. It is submitted, then, that replacing the handles disclosed by Berg with handles such as the one disclosed by Eklind would result in the elastomeric grip portion of each handle facing inward toward the other handle when the handles are extended. Elastomeric grips so located would fail to serve the purpose of the cushioning portions defined by claim 20. Accordingly, it is submitted that the rejection under 35 USC § 103(a) should be withdrawn with respect to claim 20 and also with respect to claim 21, which depends from claim 20.

Claim 23, and claims 24-27, which all depend from claim 23, were also rejected as being unpatentable over Berg in view of Eklind. Claim 23 has been amended to correct an internal inconsistency by deleting wording for which proper antecedent basis was lacking. Claim 23, as amended, requires "a shell layer of a rigid plastics material attached to an exterior surface of one of" a pair of "side walls of" a channel member, and "a cushioning portion attached to said shell layer and extending along and covering at least a portion of said elongate margin of said one of said side walls." The Examiner takes the position that it "would have been obvious to provide a shell layer of a rigid plastics material in order to provide a layer of material between the metal of Berg and the elastomeric material that is compatible with the texture of both materials."

It is submitted, however, that neither Berg nor Eklind suggests the claimed construction. Berg shows a bare metal channel, and there is no suggestion in Eklind of the three-layer construction required by claim 23, since the plastics material of the handle disclosed by Eklind is self-supporting. Its structure is apparently designed specifically to be self-supporting and not to depend on an internal channel of metal, as is shown by the presence of the transversely oriented webs 50, 52, and 54 within the channel 26 shown in FIG. 8. Accordingly, the rejection of claim 23 under 35 USC § 103(a), based on the combination of Berg and Eklind should be withdrawn.

Claim 9 was withdrawn by the Examiner and has now been canceled, since it is directed to a non-elected invention.

In light of the foregoing remarks it is submitted that claims 10 and 20-27 should not have been rejected on the grounds asserted by the Examiner and should all been allowed.

In light of allowability of all of claims 2-8, 10, 11, and 15-27, it is submitted that previously withdrawn claims 28-33, all of which depend from allowable claims, should now be examined in accordance with MPEP §§ 821.04 and 821.04(a), and should also be found allowable.

In light of the foregoing amendments and remarks, the Examiner is respectfully requested to reexamine the application, to allow claims 2-8, 10-11, and 15-33, all of the claims remaining in the application, and to pass the application on promptly to issue.

Respectfully submitted,

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